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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,345	09/11/2003	Duncan Missimer	112-0126US	8036
85197 7590 12/18/2009 Wong Cabello Lutsch Rutherford & Brucculeri LLP 20333 Tomball Parkway, 6th Floor Houston, TX 77070				
EXAMINER				
GOODCHILD, WILLIAM J				
ART UNIT		PAPER NUMBER		
2445				
MAIL DATE		DELIVERY MODE		
12/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/661,345

Applicant(s)

MISSIMER ET AL.

Examiner

WILLIAM J. GOODCHILD

Art Unit

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-49 and 119-142 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-49 and 119-142 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/09/2009 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35-41, 44-49 and 119-142 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeKoning et al, (US Patent No. 5,974,502), (hereinafter DeKoning), and further in view of Sathyanarayan, (US Publication No. 2002/0152194).

Regarding claims 35, 44, 123, 128, 133 and 138, DeKoning discloses transmitting a write request [DeKoning, column 2, lines 45-48] for multiple blocks of data [DeKoning, column 2, lines 55-58]; and transmitting a write request [DeKoning, column 2, lines 45-48] for multiple blocks of data [DeKoning, column 2, lines 51-61] to the multiple targets [DeKoning, column 4, lines 11-14].

DeKoning does not specifically disclose transmitting a request for a subset of the multiple blocks of data to the targets if the targets do not satisfy the amount of data to be transferred.

However, Sathyanarayan discloses requesting a the maximum limit needed and if unsuccessful in obtaining the maximum limit to request half the previously requested amount and then half that amount if still unsuccessful until successful [Sathyanarayan, paragraph 27].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a request for a subset of the original amount of data in order to get to the acceptable amount of data that can be written.

Regarding claims 36, 38, 40, 45, 47 and 49, DeKoning-Sathyanarayan further discloses wherein the multiple targets comprise all targets [DeKoning, column 4, lines 11-14].

Regarding claims 37, 46, 125, 130, 135 and 140, DeKoning-Sathyanarayan further discloses transferring to the multiple targets [DeKoning, column 2, lines 45-51], said subset [Sathyanarayan, paragraph 27] of the multiple blocks of data [DeKoning, column 2, lines 43-61], if the multiple targets [DeKoning, column 4, lines 11-14] satisfy said request for said subset [Sathyanarayan, paragraph 27] of the multiple blocks of data [DeKoning, column 2, lines 55-58].

Regarding claims 39, 48, 126, 131, 136 and 141, DeKoning-Sathyanarayan further discloses transmitting [DeKoning, column 2, lines 45-61] a new [Sathyanarayan, paragraph 27] write request [DeKoning, column 2, lines 45-61] for a further subset [Sathyanarayan, paragraph 27] of an amount of an immediately previous write request [Sathyanarayan, paragraph 27], if the multiple targets [DeKoning, column 4, lines 11-14] do not satisfy the amount of data to be transferred by said immediately previous write request [Sathyanarayan, paragraph 27].

Regarding claim 41, DeKoning-Sathyanarayan further discloses wherein at least one of the multiple targets comprises a storage disk [DeKoning, column 2, lines 43-44].

Regarding claims 119-122, 124, 127, 129, 132, 134, 137, 139 and 142, DeKoning-Sathyanarayan further discloses wherein said subset (and said further subset) comprises one half the amount of data [Sathyanarayan, paragraph 27].

4. Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeKoning-Sathyanarayan as applied to claim 35 above, and further in view of Ibrahim et al., (US Patent No. 6,880,062), (hereinafter Ibrahim).

Regarding claim 42, DeKoning-Sathyanarayan does not specifically disclose wherein the multiple targets comprise systems that are compliant with the Fibre Channel protocol.

However, Ibrahim, in the save field of endeavor discloses a Fibre Channel network [Ibrahim, column 2, lines 61-67].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include systems configured to communicate with a Fibre Channel network in order to allow the systems the ability to work within various types of networks.

Regarding claim 43, DeKoning-Sathyanarayan further discloses wherein the multiple targets comprise systems that are compatible with the Fibre Channel protocol [Ibrahim et al., (US Patent No. 6,880,062), (hereinafter Ibrahim)].

Response to Arguments

5. Applicant's arguments with respect to claims 35-49 and 119-142 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Examiner's Note: Examiner has cited particular paragraphs / columns and line numbers in the reference(s) applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the cited passages as taught by the prior art or relied upon by the examiner.

Should applicant amend the claims of the claimed invention, it is respectfully requested that applicant clearly indicate the portion(s) of applicant's specification that support the amended claim language for ascertaining the metes and bounds of applicant's claimed invention

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. GOODCHILD whose telephone number is

(571)270-1589. The examiner can normally be reached on Monday - Friday / 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WJG
12/11/2009

/Rupal D. Dharia/
Supervisory Patent Examiner, Art Unit 2400